

**ERIE COUNTY CLERKS OFFICE****County Clerk's Recording Page**Return To:

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Doc Type: **OIL&GAS LEASE <500**Rec Date: **09/02/2010**Rec Time: **03:21:56 PM**Control #: **2010157433**User ID: **diane**Trans Num: **944582**DEED SEQ: **TT2010001797**

MTG SEQ:

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Party 1:

MIKULA JOSEPH

Party 2:

COTTON WELL DRILLING COMPANY INC**Recording Fees:**

RECORDING	\$50.00
COE CO \$1 RET	1.00
COE STATE \$14.25 GEN	\$14.25
COE STATE \$4.75 RM	\$4.75
TP584	\$10.00

Consideration Amount: \$1.00

BASIC	\$0.00
SONYMA	\$0.00
ADDL	\$0.00
NFTA MT	\$0.00
TRANSFER	\$0.00
NFTA TT	\$0.00

Total: \$80.00

STATE OF NEW YORK
ERIE COUNTY CLERK'S OFFICE

**WARNING - THIS SHEET CONSTITUTES THE CLERK'S ENDORSEMENT,
REQUIRED BY SECTIONS 319&316-a (5) OF THE REAL PROPERTY LAW
OF THE STATE OF NEW YORK. DO NOT DETACH. THIS IS NOT A BILL.**

**Kathleen C. Hochul
County Clerk**

Box 180
WTHM

COTTON WELL DRILLING COMPANY, INC.

OIL & GAS LEASE

THIS AGREEMENT, made the 1st day of September, 2010 by and between **JOSEPH MIKULA**, Route 60, P.O. Box 390, Cassadaga, New York 14718, LESSOR and **COTTON WELL DRILLING COMPANY, INC.**, P.O. Box 203, Sheridan, New York 14135, LESSEE (A New York Corporation)

WITNESSETH that the said LESSOR(s) in consideration of the sum of One Dollar (\$1.00) to him in hand well and truly paid by the LESSEE, the receipt of which is hereby acknowledged and of the covenants and agreements hereinafter contained on the part of the said LESSEE to be paid kept and performed does hereby grant, demise, lease and let exclusively with respect to formations above the Queenston formation as set forth in Paragraph 5th(i) hereof unto the said LESSEE, its successors or assigns for the sole and only purpose of drilling and operating for oil and gas and of laying such pipelines and building such tanks, stations and structures thereon, constructing such rights of ways and drilling well or wells as may be necessary to produce, maintain, repair and transmit such oil and gas.

All That Tract or Parcel of Land, situate in the Town of Concord, County of Erie and State of New York, and being a part of Lots 28 and 36, Town 7, Range 7 of the Holland Land Company's Survey being further bounded and described as follows: **Beginning** at a point in the centerline of Genesee Road, said point being 281.96 feet North 82 degrees 15 minutes 37 seconds West of the intersection of Genesee Road and the lot line between Lots 28 and 36; thence South 82 degrees 15 minutes 37 seconds East, 590.50 feet to a point in the centerline of Genesee Road; thence South 83 degrees 03 minutes 37 seconds East, 1410.40 feet to a point in the centerline of Genesee Road; thence South 83 degrees 11 minutes 20 seconds East, 428.22 feet to a point in the centerline of Genesee Road; thence North 06 degrees 01 minute 59 seconds West, 25.39 feet to an iron stake; thence continuing along the same line 4306.40 feet to an iron stake said stake being 1986.5 feet westerly from the centerline of Trevett Road; thence South 85 degrees 41 minutes 59 seconds West, 2328.86 feet to an iron stake; thence South 05 degrees 28 minutes 22 seconds East, 3810.80 feet to an iron stake; thence continuing along the same line 39.20 feet to the point or place of beginning, containing 220.71 acres more or less. Being designated on the Erie County Tax Map for the Town of Concord as Section 305.00 Block 2 Lot 9.

It is agreed that this lease shall remain in force for the term of two (2) years from date, and as long thereafter as oil or gas or either of them is produced from said land by the LESSEE, its successors or assigns, and/or if LESSEE or its assigns shall commence drilling operations at any time while this lease is in force, this lease shall remain in force and its terms shall continue so long as such operations continue with due diligence and if production results therefrom, then as long as production continues.

IN CONSIDERATION OF THE PREMISES the said LESSEE covenants and agrees as follows:

1st-To pay at the rate of 3/16th of the field price of gas from each and every gas well drilled on said premises, the product from which is marketed and used off the premises, said payment to be made on each well, on a regular basis to the landowner.

2nd-To complete and utilize a well on said premises on or before the 1st day of December, 2010, or pay to the said LESSOR(s) thereafter in advance the sum of Five Dollars (\$5.00) per acre rental for each year such commencement is delayed, and it is agreed that the commencement of a well shall be

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and operate as a full liquidation of all rental under this Paragraph 3 during the remainder of the term of this lease.

3rd-The said LESSOR(s) covenant(s) and agree(s) that all monies due under this lease shall be paid Joseph Mikula, Route 60, P.O. Box 390, Cassadaga, New York 14718

4th-The LESSOR(s) hereby warrant(s) and agree(s) to defend the title to the land herein described and agree(s) that the LESSEE at its option may pay and discharge any taxes, mortgages, or installments thereof or interest thereon or other liens existing at any time against the above described lands which could impair the rights of the LESSEE under this lease, and in the event the LESSEE exercises such option it shall be subrogated to the rights of any holder or holders of such liens and may reimburse itself by applying to the discharge of any such taxes, mortgages or installments thereof or interest, or other lien, any royalty or rentals accruing hereunder.

5th-IT IS MUTUALLY AGREED by the parties hereto as follows:

- (a) No well shall be drilled nearer than two hundred (200) feet to the house or barn now on the described premises without the written consent of the LESSOR(s).
- (b) FREE GAS FOR LESSOR. If gas is found in paying quantities and conveyed from the premises and marketed, the LESSOR reserves the right to take gas from the well on the Premises not exceeding 300,000 cubic feet per year free of cost, for domestic purposes in a house on the premises by laying the necessary line and making connections at the LESSOR's own risk and cost, and the LESSEE shall not be in any way liable for insufficient supply caused by the use of pumping stations, breakage of lines or otherwise; and nothing herein shall prevent the LESSEE from abandoning any well or wells and removing the pipe therefrom. If more than 300,000 cubic feet per year is so used, the excess shall be paid for at the prevailing rate charged to domestic consumers in the area. As stated in Subparagraph (f) of this Paragraph 5th, this lease is assignable by either party in whole or in part. In the event that LESSOR shall assign the rights under this Subparagraph (b) to a purchaser of premises subject to this lease, the sole liability for the exercise of rights under this Subparagraph (b) shall be in such assignee.
- (c) It is agreed that the LESSEE is to have the privilege of using sufficient water and gas from the premises to run all necessary machinery, and at any time to remove all machinery and fixtures placed on said premises; and further upon the payment of One Dollar at any time to the LESSOR(s), heirs, executors, administrators or assigns, said LESSEE, its successor or assigns, shall have the right to surrender this lease for cancellation, after which all payments and liabilities thereafter to accrue under and by virtue of its items shall cease and determine, and this lease shall become absolutely null and void.

- (d) All expressed or implied covenants of this lease shall be subject to all Federal and State laws, executive orders, rules or regulations, and this lease shall not be terminated in whole or in part, nor LESSEE held liable in damages, for failure to comply therewith if compliance is prevented by, or if such failure is the result of, any such law, order, rule or regulation.
- (e) The premises leased hereby shall not be pooled or unitized with other premises by LESSEE. In the event that LESSEE obtains or is subject to a superseding order compelling pooling or unitization, this Paragraph 5th(e) notwithstanding, the full royalty provided in Paragraph 1st of this lease shall be paid to LESSOR with respect to any well drilled upon the premises leased hereby.
- (f) The rights of either party under this lease may be assigned in whole or in part. No assignment by the LESSOR or change of division of ownership of the Premises, or any rights hereunder, however accomplished, shall operate to enlarge the obligations or liabilities or diminish the rights, powers or privileges of the LESSEE. No such assignment or change or division in ownership shall be binding upon LESSEE for any purpose until LESSEE shall be furnished with a certified copy of the recorded instrument or other legally authenticated written evidence of such assignment or change. Should LESSEE assign this lease in whole or in part, LESSOR shall look solely to the assignee for the performance of its terms as to the part so assigned. In the event of a partial assignment by LESSEE, the rentals shall be apportioned as between the several owners ratably according to the surface area of each, and failure by one of them in any such payment shall not affect the validity of the lease on the portions of the Premises with respect to which pro rata payment is timely paid or tendered.
- (g) If any person named as LESSOR does not execute this lease, it shall nevertheless be effective as to each other person named as LESSOR who does execute it.
- (h) All terms, conditions, limitations and covenants between the parties hereto shall extend to their respective heirs, successors, personal representatives or assigns.
- (i) LESSOR reserves all rights to formations below the top of the Queenston formation *provided, however,* that LESSEE shall have the right to create a pocket or pockets at the top of the Queenston formation to cement a well pipe or pipes.

Subdivision 5 of Section 5-33 of the General Obligations Law is REPEALED and two new subdivisions 5 and 6 are added to as follows:

On or after January first, two thousand six, and oil and gas lease shall contain the following statement printed in at least ten point bold type:

THIS IS A LEASE OF OIL AND GAS RIGHTS, NOT A SALE, CONTAINING TERMS THAT MAY BE NEGOTIATED BY YOU. YOU HAVE THE RIGHT TO CANCEL THIS LEASE WITHIN THREE BUSINESS DAYS AFTER EXECUTION OF THE LEASE BY NOTIFYING THE LESSEE THAT YOU HAVE CANCELLED THIS CONTRACT. IN ORDER TO CANCEL THIS LEASE, YOU MUST EXECUTE A NOTICE OF CANCELLATION IN THE FORM PROVIDED BELOW, MAIL IT TO THE LESSEE AND REFUND ALL AMOUNTS PAID TO YOU BY THE LESSEE WITHIN THE THREE-DAY CANCELLATION PERIOD. THE MAILING MUST BE POSTMARKED WITHIN THE THREE-DAY CANCELLATION PERIOD TO BE EFFECTIVE.

NOTICE OF CANCELLATION

I/WE HEREBY CANCEL THIS LEASE.

DATED:

SIGNATURE:

THE PERSON REPRESENTING THIS LEASE TO YOU IS () NOT (x) A MEMBER OF name of organization. AND THEREFORE IS () IS NOT (x) SUBJECT TO A CODE OF CONDUCT. IF THE PERSON PRESENTING THIS LEASE TO YOU IS SUBJECT TO A CODE OF CONDUCT, A COPY OF THE CODE OF CONDUCT MUST BE PRESENTED TO YOU WITH THIS LEASE. IF APPLICABLE, THE CODE OF CONDUCT PROVIDES A DISPUTE RESOLUTION MECHANISM FOR ANY DISPUTE THAT YOU MAY HAVE REGARDING THE MANNER BY WHICH THIS LEASE WAS PRESENTED TO YOU. IF YOU HAVE ANY SUCH DISPUTE, YOU MAY INVOKE THE DISPUTE RESOLUTION MECHANISM OF THE CODE OF CONDUCT BY CONTACTING THE PERSON OR PERSONS DESIGNATED IN THE CODE OF CONDUCT. THE FAILURE OF THE LESSEE TO PAY ANY ROYALTIES TO YOU AS REQUIRED UNDER THE TERMS OF THE LEASE FOR A PERIOD OF FOUR CONSECUTIVE MONTHS OR MORE SHALL BE A DEFAULT UNLESS OTHERWISE PROVIDED BY LAW, AND WILL RESULT IN CANCELLATION OF THE LEASE APPLICABLE TO THE TARGET FORMATION OF THE WELL WITHIN THE SPACING UNIT, FOLLOWING WRITTEN NOTIFICATION TO THE LESSEE OF YOUR INTENT TO CANCEL AND SIXTY DAYS FOR THE LESSEE TO CURE THE DEFAULT. IF THE LESSEE HAS A BONA FIDE DISPUTE REGARDING THE GROUNDS FOR CANCELLATION, SUCH DISPUTE AND THE REASONS THEREFOR MUST BE PROVIDED TO YOU IN WRITING OR THE DEFAULT MUST BE CURED WITHIN SUCH SIXTY DAY PERIOD, OTHERWISE THE LEASE SHALL BE CANCELLED.

The provisions of subdivision five of this section shall apply to leases entered in on or after January first, two thousand six.

The said LESSOR(s) has hereunto set his hand the day and year first above written.

Joseph Mikula LESSOR
Joseph Mikula

STATE OF NEW YORK } SS:
COUNTY OF CHAUTAUQUA }

On this 1st day of September, in the year 2010, before me, the undersigned, personally appeared **Joseph Mikula**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

LORRY A SCHNEIDER
NOTARY PUBLIC-STATE OF NEW YORK
No. 01SC6207235
Qualified in Chautauqua County
My Commission Expires June 08, 2013

Lorry A Schneider
Notary Public (affix seal)

The said LESSEE(s) has hereunto set his hand the day and year first above written.

Donald L Cotton LESSEE
Donald Cotton, Chairman of the Board

STATE OF NEW YORK } SS:
COUNTY OF CHAUTAUQUA }

On this 1st day of September, in the year 2010, before me, the undersigned, personally appeared **Donald Cotton**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

LORRY A SCHNEIDER
NOTARY PUBLIC-STATE OF NEW YORK
No. 01SC6207235
Qualified in Chautauqua County
My Commission Expires June 08, 2013

Lorry A Schneider
Notary Public (affix seal)